



**League
of Kansas
Municipalities**

DOCKET FILE COPY ORIGINAL

RECEIVED

JAN 28 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL/112 S.W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

January 26, 1993

92-266

Office of the Secretary of the FCC
MM Docket 92-266
1919 M Street, Room 222
Washington, D.C. 20554

Dear Secretary:

The following comments are being presented on behalf of the 543 cities in Kansas who are represented by the League of Kansas Municipalities. Since the League acts as a clearinghouse for information going to and from cities in Kansas, we feel we are in an extraordinary position to comment on the cable rate regulations proposed to implement the Cable Television Consumer Protection and Competition Act of 1992.

Specifically our concerns fall into three general categories. The first involves the procedures for filing, approving and revoking certification of a competitive or noncompetitive market. What we have found in the nine years since the implementation of the Cable Act of 1984 is that most cities in Kansas have no effective competition, but these cities were still unable to control rates due to the complex and costly nature of the process which was required to establish that the cable system was not subject to effective competition. We strongly urge the Commission to simplify the process to allow smaller municipalities to determine: (1) whether they are in a competitive or noncompetitive market; and (2) to vastly simplify the procedures for filing, approving and revoking certification of a competitive market. If the procedures for determining the type of market are complex or expensive, smaller units will be unable to use the process and therefore lose the ability to control rates, even though the regulations may ostensibly allow this rate control. We cannot stress enough that the process must be made as simple and inexpensive as possible to level the playing field with large, well financed cable companies.

The second area of great concern to municipalities in Kansas is the rate regulation proceeding in which the Commission will determine if a "benchmarking approach" or a "cost-based" approach to local rate regulation should be used. The League strongly urges the Commission to establish a benchmarking approach to local rate regulation. This would have the effect of simplifying the process and allowing smaller units to effectively control rates. It would require reduction of rates to the benchmark level unless the cable operator could justify a higher rate level. This would greatly help cities in Kansas since there is little effective competition in many parts of the state and the process would be useable by even smaller cities. We strongly oppose any rulemaking in this area which will add complexity to rate regulation since any complexity will reduce the ability of cities to regulate rates and simply reposition the control of the process in the hands of large cable television system operators.

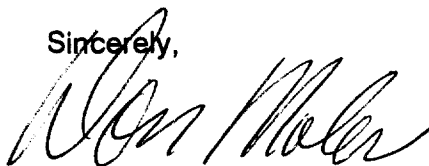
No. of Copies rec'd 049
List A B C D E

President: Joseph E. Steiner, Mayor, Kansas City * **Vice President:** Donald L. Anderson, Mayor, Lindsborg * **Past President:** Ed Ellert, Mayor, Overland Park * **Directors:** * Chris Charches, City Manager, Wichita * Yvonne Coon, City Administrator, Clearwater * John Divine, Commissioner, Salina * Harry L. Felker, Mayor, Topeka * Idella Frickey, Mayor, Oberlin * Ralph T. Goodnight, Mayor, Lakin * Nancy Maze, Commissioner, Fort Scott * Mark Mingenback, Councilmember, Great Bend * John Naibandian, Commissioner, Lawrence * William Phillips, Councilmember, Marysville * Mary E. Reed, City Clerk/Director of Finance, Parsons * Neil Shortlidge, City Attorney, Roeland Park * **Executive Director:** Christopher K. McKenzie

Finally, the League strongly urges the Commission to develop a simplified process in which local rate proceedings could be streamlined to allow for a cost effective and easily administered process. Specifically, most Kansas cities do not have the resources to engage in a complex rate proceeding with a well-financed cable company. The Commission will do a great service to cities in Kansas by making the process for filing and approving FCC certification of rates as simple and inexpensive as possible for the benefit of not only the cities but ultimately the ratepayers throughout the state. We would suggest a process which involves perhaps only one newspaper notice, followed by a single public hearing and finally a determination by the city governing body. Once a determination is made by the governing body, it could then be certified by mail to the Commission. This type of process would accomplish two things: (1) it would allow for a due process hearing for the cable operator and other interested parties; and (2) it would serve the public interest by ease of operation, even in very small cities. This type of process is found throughout the statutory and ordinance law of Kansas and would serve the cable ratemaking process well.

It is our opinion that cable operators have long used the complex, and therefore expensive, nature of the Cable Act of 1984 to thwart the wishes of Kansas cities and their citizens. We are hopeful that the Commission will establish rules and regulations enacting the Cable Television Consumer Protection and Competition Act of 1992 which will allow local units of all sizes the ability to control rates and services provided by local cable systems. We believe this was the intent of the legislation and urge the Commission to level the playing field between local governments and cable television system operators.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Moler", written in a cursive style.

Don Moler
Senior Legal Counsel

DM:bw